

# ● PRINTER RUSH ●

(PTO ASSISTANCE)

Application : 09/887,789 Examiner : SMITH GAU : 3721

From : M. DONATO Location : IDC FMF FDC Date : 12/28/05

Tracking # : EP09887789 Week Date : 11/07/05

| DOC CODE                                 | DOC DATE       | MISCELLANEOUS                                |
|--|----------------|--|
| <input type="checkbox"/> 1449            | _____          | <input type="checkbox"/> Continuing Data     |
| <input type="checkbox"/> IDS             | _____          | <input type="checkbox"/> Foreign Priority    |
| <input type="checkbox"/> CLM             | _____          | <input type="checkbox"/> Document Legibility |
| <input type="checkbox"/> IIFW            | _____          | <input type="checkbox"/> Fees                |
| <input type="checkbox"/> SRFW            | _____          | <input type="checkbox"/> Other               |
| <input type="checkbox"/> DRW             | _____          |  |
| <input checked="" type="checkbox"/> OATH | <u>6/22/01</u> |  |
| <input type="checkbox"/> 312             | _____          |  |
| <input type="checkbox"/> SPEC            | _____          |  |

[RUSH] MESSAGE:

THE OATH/DECLARATION IS NOT SIGNED BY ANY  
OF THE INVENTORS.

THANK YOU.  
MAJ

[XRUSH] RESPONSE:

see misc comm

Dae

INITIALS

for

NOTE: This form will be included as part of the official USPTO record, with the Response document coded as XRUSH.

REV 10/04

**DANN, DORFMAN, HERRELL AND SKILLMAN,****A PROFESSIONAL CORPORATION**

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**FACSIMILE COVER SHEET**URGENT

**DATE:** January 31, 2006  
**COMPANY:** US PTO - Rori Burch  
**FAX:** 571-273-9009  
**FROM:** Stephen H. Eland  
**RE:** 09/887,789

**Total Number of Pages Including this Cover Sheet: 9**

THIS COMMUNICATION IS INTENDED ONLY FOR THE USE OF THE ADDRESSEE AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED AND CONFIDENTIAL. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT THE UNAUTHORIZED DISSEMINATION OF THE COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE.

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of **Whitman et al**  
Application No. **09/887,789**  
Attorney Docket No. **3556-P03147US1**  
Filed: **June 22, 2001**  
For: **Electro-Mechanical Surgical Device**

**Certification of Facsimile Transmission**

I hereby certify that the accompanying paper is being facsimile transmitted to the U.S. Patent and Trademark Office to Facsimile No. (571) 273-9009 on the date shown below.

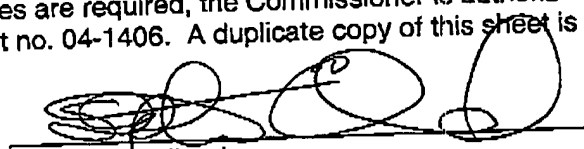
January 31, 2006  
Date

  
Robin L. Dolan

**Authorization to Charge Deposit Account**

In the event any additional fees are required, the Commissioner is authorized to charge those fees to deposit account no. 04-1406. A duplicate copy of this sheet is included for fee processing, if necessary.

January 31, 2006  
Date

  
Stephen H. Eland

**RESPONSE TO NOTICE TO FILE CORRECTED APPLICATION PAPERS**

A Notice dated January 26, 2006, requested that Applicant submit a signed copy of the previously submitted Declaration. Applicant believes that the signed Declaration was submitted November 7, 2001. Nonetheless, in response to the Notice, attached is the following:

1. Executed Declaration;
2. Copy of Response to Notice to File Missing Parts dated Nov. 7, 2001;
3. Copy of Notice to File Corrected Application Papers; and
4. Authorization to Charge Deposit Account.

Respectfully submitted,

DANN, DORFMAN, HERRELL & SKILLMAN  
A Professional Corporation  
Attorneys for Applicant(s)

By

  
Stephen H. Eland  
PTO Registration No. 41,010

Telephone: (215) 563-4100  
Facsimile: (215) 563-4044

or



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.       | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------------|------------------|
| 09/887,789   | 06/22/2001  | Michael P. Whisman   | 11442/56<br>355-PO-147US1 | 7650             |
| 110  | 7590        | 01/26/2006           | EXAMINER                  |                  |
| DANN, DORFMAN, HERRELL & SKILLMAN<br>1601 MARKET STREET<br>SUITE 2400<br>PHILADELPHIA, PA 19103-2307 |             |                      | SMITH, SCOTT A            |                  |
|  |             |                      | ART UNIT                  | PAPER NUMBER     |
|  |             |                      | 372                       |                  |

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**UNITED STATES PATENT AND TRADEMARK OFFICE**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Serial Number  
09837789

Date Mailed  
1/26/06

**NOTICE TO FILE CORRECTED APPLICATION PAPERS*****Notice of Allowance Mailed***

This application has been accorded an Allowance Date and is being prepared for issuance. The application, however, is incomplete for the reasons below.

Applicant is given 30 days from the mail date of this Notice within which to correct the informalities indicated below. A failure to reply will result in the application being ABANDONED. This period for reply is NOT extendable under 37 CFR 1.136 (a) or (b).

- ♦ 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> inventor's signatures are missing from the oath/declaration. Fax missing information to number below or e-mail.
- o For status updates visit <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR System, contact the Electronic Business Center (EBC) toll free at 866-217-9197.

**APPLICANT MUST SUPPLY MISSING INFORMATION WITHIN 30 DAYS OF THE MAIL DATE OF THIS NOTICE.**

A copy of this notice **MUST** be returned with the reply. Please address response to Commissioner for Patents P.O. Box 1450  
Alexandria, VA 22313-1450

A handwritten signature in black ink, appearing to read "Rori Burch", written over a horizontal line.

Rori Burch  
USPTO  
Publishing Division  
Rori.burch@uspto.gov  
Fax (571) 273-9009  
Fax (703) 308-6642  
703-305-0333 ext.135 (V)

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

ATTORNEY'S DOCKET NO.  
11443/56

# DECLARATION

As a below named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name,

I believe I am an original, first, and joint inventor of the subject matter that is claimed and for which a patent is sought on the invention entitled **ELECTRO-MECHANICAL SURGICAL DEVICE**, the specification of which was filed on **June 22, 2001** as U.S. Patent Application Serial No. **09/887,789**.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

## PRIOR UNITED STATES APPLICATION(S)

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

| APPLICATION NUMBER            | FILING DATE<br>(day, month, year) | STATUS<br>(i.e. Patented, Pending, Abandoned) |
|-------------------------------|-----------------------------------|---|
| 09/324,451 12                 | 02 June 1999                      | Pending                                       |
| 09/324,452 4                  | 02 June 1999                      | Pending                                       |
| 09/351,534 13                 | 12 July 1999                      | Pending                                       |
| 09/510,923 11                 | 22 February 2000                  | Pending                                       |
| 09/510,927 10                 | 22 February 2000                  | Pending                                       |
| 09/510,932 16                 | 22 February 2000                  | Pending                                       |
| 09/723,715 24                 | 28 November 2000                  | Pending                                       |
| 09/836,781 8 45 <sup>th</sup> | 17 April 2001                     | Pending                                       |


SEND CORRESPONDENCE, AND DIRECT TELEPHONE CALLS TO:

**Kenyon & Kenyon**  
**One Broadway**  
**New York, New York 10004**  
**(212) 425-7200 (phone)**  
**(212) 425-5288 (facsimile)**

**26646**

PATENT TRADEMARK OFFICE

I declare that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issuing thereon.

|   |   |                                       |   |
|---|---|---------------------------------------|---|
| FULL NAME OF INVENTOR   | FAMILY NAME<br><b>WHITMAN</b>                 | FIRST GIVEN NAME<br><b>Michael</b>    | SECOND GIVEN NAME<br><b>P.</b>              |
| RESIDENCE & CITIZENSHIP   | CITY<br><b>New Hope</b>                       | STATE OR FOREIGN COUNTRY<br><b>PA</b> | COUNTRY OF CITIZENSHIP<br><b>US</b>         |
| POST OFFICE ADDRESS   | POST OFFICE ADDRESS<br><b>16 Pheasant Run</b> | CITY<br><b>New Hope</b>               | STATE & ZIP CODE/COUNTRY<br><b>PA 18938</b> |
| Signature  |   | Date <b>10/30/01</b>                  |   |

|                                  |   |                                       |   |
|----------------------------------|---|---------------------------------------|---|
| FULL NAME OF INVENTOR            | FAMILY NAME<br><b>BURBANK</b>                   | FIRST GIVEN NAME<br><b>John</b>       | SECOND GIVEN NAME<br><b>E.</b>              |
| RESIDENCE & CITIZENSHIP          | CITY<br><b>Ridgefield</b>                       | STATE OR FOREIGN COUNTRY<br><b>CT</b> | COUNTRY OF CITIZENSHIP<br><b>US</b>         |
| POST OFFICE ADDRESS              | POST OFFICE ADDRESS<br><b>106 Haviland Road</b> | CITY<br><b>Ridgefield</b>             | STATE & ZIP CODE/COUNTRY<br><b>CT 06877</b> |
| Signature <i>John E. Burbank</i> |   | Date <i>10/30/01</i>                  |   |
|                                  |   |                                       |   |
| FULL NAME OF INVENTOR            | FAMILY NAME<br><b>ZEICHNER</b>                  | FIRST GIVEN NAME<br><b>David</b>      | SECOND GIVEN NAME<br><b>A.</b>              |
| RESIDENCE & CITIZENSHIP          | CITY<br><b>Oxford</b>                           | STATE OR FOREIGN COUNTRY<br><b>CT</b> | COUNTRY OF CITIZENSHIP<br><b>US</b>         |
| POST OFFICE ADDRESS              | POST OFFICE ADDRESS<br><b>7 Wychwood Lane</b>   | CITY<br><b>Oxford</b>                 | STATE & ZIP CODE/COUNTRY<br><b>CT 06478</b> |
| Signature <i>D. A. Zeichner</i>  |   | Date <i>11/30/01</i>                  |   |
|                                  |   |                                       |   |

**U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE**

**RESPONSE TO NOTICE TO FILE  
MISSING PARTS OF NONPROVISIONAL  
APPLICATION**

Docket Number:  
**11443/56**

Application Number  
**09/887,789**

Filing Date  
**June 22, 2001**

Examiner  
**Not Yet Assigned**

Art Unit  
**3739**

Invention Title  
**ELECTRO-MECHANICAL SURGICAL DEVICE**

Inventor(s)  
**Michael P. Whitman et al.**

Address to:  
Assistant Commissioner for Patents  
Washington D.C. 20231  
Box Missing Parts

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box Missing Parts, Washington, D.C. 20231 on

Date: **7 Nov 2001**

Signature **Michelle M. Carniaux, Reg. No. 36,098**

To complete the filing requirements for the above-referenced application under 37 C.F.R. § 1.51, enclosed please find a Declaration signed by the inventors and an Appointment of Power of Attorney By Assignee of Entire Interest. A copy of the Notice To File Missing Parts of NonProvisional Application mailed August 23, 2001 is also enclosed.

Applicants request a one month extension of time to respond to the Notice To File Missing Parts mailed August 23, 2001, resetting the response date to November 23, 2001. The extension fee of \$55.00 should be charged to the deposit account of **Kenyon & Kenyon**, deposit account number **11-0600**.

1. The Commissioner is hereby authorized to charge payment of the 37 C.F.R. § 1.16(e) surcharge fee of \$65.00 and any additional fees to the deposit account of **Kenyon & Kenyon**, deposit account number **11-0600**.
2. A duplicate of this sheet is enclosed.

Date: **7 Nov 2001**

By: 

**Michelle M. Carniaux, Reg. No. 36,098**



**26646**

PATENT TRADEMARK OFFICE

**KENYON & KENYON**  
One Broadway  
New York, New York 10004



## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|--------------------|---------------------|-----------------------|------------------------|
| 09/887,789         | 06/22/2001          | Michael P. Whitman    | 11443/56               |

CONFIRMATION NO. 7650

## FORMALITIES LETTER



\*OC000000006466118\*

KENYON & KENYON  
One Broadway  
New York, NY 10004

Date Mailed: 08/23/2001

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

## Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 65.

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE